

ALJ/TAH/avs

Decision 02-02-038 February 21, 2002

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the matter of the application of  
Morgan D. Brown, Roberta, M. Brown, and  
Ross R. Jaramillo, doing business as ETA  
Transportation LLC for authority to operate as a  
passenger stage corporation between points in  
San Diego, Orange and Los Angeles Counties,  
San Diego, Carlsbad, Orange and Los Angeles  
Airports and to establish a Zone of Rate Freedom.

Application 01-09-009  
(Filed September 6, 2001)

**O P I N I O N**

**Summary**

This decision grants the application of ETA Transportation, LLC (Applicant), a limited liability company, pursuant to Pub. Util. Code § 1031 *et seq.*, for a certificate of public convenience and necessity to operate as a passenger stage corporation (PSC), as defined in Pub. Util. Code § 226, and to establish a zone of rate freedom (ZORF) pursuant to Pub. Util. Code § 454.2.

**Discussion**

The application, as amended by letter of November 29, 2001, requests authority to operate as an on-call PSC to transport passengers and their baggage between points and places in North San Diego County and McClellan – Palomar Airport (PAL). Applicant proposes to use two seven- passenger vans. The proposed fares as listed in Exhibit C range between \$20 (Carlsbad - PAL) and \$45 (Fallbrook– PAL). Exhibit D is an unaudited Balance Sheet as of

June 7, 2001, that discloses assets of \$210,000; liabilities of \$17,000; and net worth of \$193,000.

Applicant also requests authority to establish a ZORF of \$8 above and below any of the proposed fares shown in Exhibit C. The minimum fare will be \$5. Applicant will compete with other PSCs, taxicabs, limousines, buses, and automobiles in its service area. This highly competitive environment should result in Applicant pricing its services at a reasonable level.

Notice of filing of the application appeared in the Commission's Daily Calendar on September 14, 2001. Applicant notified the affected airports and governmental entities.

In Resolution ALJ 176-3071 dated September 20, 2001, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protest has been received. Given this status, public hearing is not necessary, and it is not necessary to alter the preliminary determinations made in Resolution ALJ 176-3071.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

### **Findings of Fact**

1. The amended application requests authority to operate as an on-call PSC to transport passengers and their baggage between points and places in North San Diego County and PAL.

2. Public convenience and necessity requires the proposed service.

3. Applicant requests authority to establish a ZORF of \$8 above and below any of the proposed fares shown in Exhibit C, attached to the application. The minimum fare will be \$5.

4. Applicant will compete with PSCs, taxicabs, limousines, buses, and automobiles in its operations. The ZORF is fair and reasonable.
5. No protest to the application has been filed.
6. A public hearing is not necessary.
7. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

### **Conclusions of Law**

1. Public convenience and necessity has been demonstrated and the application, as amended by letter of November 29, 2001, should be granted. The request for a ZORF should be granted.
2. The request for a ZORF should be granted.
3. Before Applicant changes any fares under the ZORF authorized below, Applicant shall give this Commission at least ten days' notice. The tariff should show between each pair of service points the high and low ends of the ZORF and the then currently effective fare.
4. Since the matter is uncontested, the decision should be effective on the date it is signed.

Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

## **O R D E R**

### **IT IS ORDERED** that:

1. A certificate of public convenience and necessity (CPCN) is granted to ETA Transportation, LLC (Applicant), a limited liability company, authorizing it to operate as a passenger stage corporation (PSC), as defined in Pub. Util. Code

§ 226, to transport persons and their baggage between the points and over the routes set forth in Appendix PSC-14038, subject to the conditions contained in the following paragraphs.

2. Applicant shall:

- a. File a written acceptance of this certificate within 30 days after this order is effective.
- b. Establish the authorized service and file tariffs and timetables within 120 days after this order is effective.
- c. File tariffs on or after the effective date of this order. They shall become effective ten days or more after the effective date of this order, provided that the Commission and the public are given not less than ten days' notice.
- d. Comply with General Orders Series 101, 104, and 158, and the California Highway Patrol (CHP) safety rules.
- e. Comply with the controlled substance and alcohol testing certification program pursuant to Pub. Util. Code § 1032.1 and General Order Series 158.
- f. Maintain accounting records in conformity with the Uniform System of Accounts.
- g. Remit to the Commission the Transportation Reimbursement Fee required by Pub. Util. Code § 423 when notified by mail to do so.
- h. Comply with Pub. Util. Code §§ 460.7 and 1043, relating to the Workers' Compensation laws of this state.
- i. Enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code.

3. Applicant is authorized under Pub. Util. Code § 454.2 to establish a zone of rate freedom (ZORF) of \$8 above and below any of the proposed fares shown in Exhibit C, attached to the application. The minimum fare will be \$5.

4. Applicant shall file a ZORF tariff in accordance with the application on not less than ten days' notice to the Commission and to the public. The ZORF shall expire unless exercised within 120 days after the effective date of this order.

5. Applicant may make changes within the ZORF by filing amended tariffs on not less than ten days' notice to the Commission and to the public. The tariff shall include between each pair of service points the authorized maximum and minimum fares and the fare to be charged.

6. In addition to posting and filing tariffs, Applicant shall post notices explaining fare changes in its terminals and passenger-carrying vehicles. Such notices shall be posted at least ten days before the effective date of the fare changes and shall remain posted for at least 30 days.

7. Applicant is authorized to begin operations on the date that the Rail Safety and Carriers Division mails a notice to Applicant that its evidence of insurance and other documents required by Ordering Paragraph 2 have been filed with the Commission and that the CHP has approved the use of Applicant's vehicles for service.

8. Before beginning service to any airport, Applicant shall notify the airport's governing body. Applicant shall not operate into or on airport property unless such operations are authorized by the airport's governing body.

9. The CPCN to operate as PSC-14038, granted herein, expires, unless exercised within 120 days after the effective date of this order.

10. The Application, as amended by letter of November 29, 2001, is granted as set forth above.

11. This proceeding is closed.

This order is effective today.

Dated February 21, 2002, at San Francisco, California.

LORETTA M. LYNCH

President

HENRY M. DUQUE

RICHARD A. BILAS

CARL W. WOOD

GEOFFREY F. BROWN

Commissioners

CERTIFICATE  
  
OF  
  
PUBLIC CONVENIENCE AND NECESSITY  
  
AS A PASSENGER STAGE CORPORATION  
  
PSC-14038

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Showing passenger stage operative rights, restrictions,  
limitations, exceptions, and privileges

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All changes and amendments as authorized by  
the Public Utilities Commission of the State of California  
will be made as revised pages or added original pages.

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Issued under authority of Decision 02-02-038,  
dated February 21, 2002 of the Public Utilities Commission

of the State of California in Application 01-09-009.



## **I N D E X**

	<b>Page</b>
SECTION I. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS, AND SPECIFICATIONS.....	2
SECTION II. SERVICE AREAS .....	3
SECTION III. ROUTE DESCRIPTION .....	3

Decision 02-02-038, Application 01-09-009.

SECTION I. GENERAL AUTHORIZATIONS, RESTRICTIONS,  
LIMITATIONS, AND SPECIFICATIONS.

ETA Transportation, LLC, a limited liability company, by the certificate of public convenience and necessity granted by the decision noted in the foot of the margin, is authorized to transport passengers and their baggage on an “on-call” basis, between points and places as described in Section III, and over and along the route described in Section III, subject however, to the authority of this Commission to change or modify this authority at any time and subject to the following provisions:

- A. When a route description is given in one direction, it applies to operation in either direction unless otherwise indicated.
- B. The term “on-call,” as used, refers to service that is authorized to be rendered dependent on the demands of passengers. The tariffs shall show the conditions under which each authorized on-call service will be provided, and shall include the description of the boundary of each fare zone, except when a single fare is charged to all points within a single incorporated city.
- C. No passengers shall be transported except those having a point of origin or destination as described in Sections IIB.
- D. This certificate does not authorize the holder to conduct any operation on the property of any airport unless such operation is authorized by the airport authority involved.

Decision 02-02-038, Application 01-09-009.

SECTION II. SERVICE AREA.

- A. Points and places in North San Diego County that includes the following cities or communities: Carlsbad, Cardiff, Del Mar, Escondido, Encinitas, Fallbrook, Fairbanks Ranch, Leucadia, Oceanside, Oleivenhain, Rancho Santa Fe, San Marcos, Solana Beach and Vista.
- B. McClellan –Palomar Airport.

SECTION III. ROUTE DESCRIPTION.

Commencing from any point described in Section IIA, then over the most convenient streets, expressways, and highways to the airport described in Section IIB.